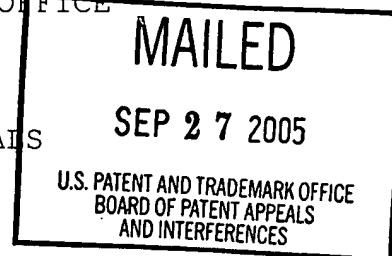


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_



Ex parte ROBERT W. LUFFEL  
and DAVID P. JONES  
\_\_\_\_\_

Application 09/371,708  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on June 16, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Two Information Disclosure Statements (IDS) were filed on June 28, 2002 and October 11, 2002. It is not apparent from the record that the examiner has considered these statements

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submitted nor notified applicants of why the submission did not meet the criteria set forth in 37 CFR § 1.197 and § 1.98.

Second, on July 1, 2003, the examiner mailed an examiner's answer. There is no proper indication that a complete appeals conference was held. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their names. This will make the record clear than an appeal conference has been held.**

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Accordingly, it is

**ORDERED** that the application is returned to the examiner for: 1) consideration of the two Information Disclosure Statements; 2) for the appeals conference; and 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in dark ink, appearing to read 'Frances C. Han', written over a horizontal line.

By: Frances C. Han  
Program and Resource Administrator  
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cc:

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